IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
W.R. GRACE & CO., et al	)	Case No. 01-1139(JKF)
	)	
	)	(Jointly Administered)
	)	
Debtors.	)	

CLAIMANTS' OBJECTION AND RESPONSE TO THE EXPEDITED MOTION TO MODIFY ORDER

Preliminary Objections

1. Cooney & Conway objects to the inadequate notice and expedited schedule for briefing and responding to Grace's motion. Claimants' counsel received Grace's motion by fax transmission at 1:06 P.M. on January 31st, 2007. The motion contains no notice as to the date or time of a hearing. It is a fundamental violation of due process for the Court to enter an order affecting thousands of claimants that gives the claimants less than two business days to respond to Grace's Motion.

2. Cooney and Conway further objects to the vagueness of Grace's motion. Grace does not specifically cite the Cooney & Conway Claimant's x-ray submissions (nor those of many other firms), yet Grace's language appears to apply to literally ALL submissions sent to it's consulting firm. At a minimum, the Debtor should have to inform each firm what submission in particular it finds objectionable, so that the parties can attempt to resolve the issue without Court

intervention.

Response and Objections

Absent any specificity from the Debtor as to precisely what, if any, objections it has to Claimants submissions, responding to Grace's motion is somewhat difficult. Therefore, Claimant's will simply inform the Court what they have submitted to Grace. It is Claimants' firm position that these submissions are in conformance with the Court's December 2006 orders on the matter of x-ray production.

Claimants have provided Grace's consultant, Rust, with all X-rays in their possession. Under Illinois law, hospitals and medical providers provide *copies* of X-rays and medical records to authorized persons, including the patients. 735 ILCS 5/8 2001 and 735 ILCS 5/8-2003. Originals may be viewed at the facilities or office[1]. Thus, the X-rays provided to Rust were copies. Each Claimant provided a stipulation that to the best of his knowledge, the X-rays were accurate copies of the original.

Claimants had previously authorized the release of their medical records at the time they filed their lawsuits. Due to the passage of time and especially since the prior authorizations were executed prior to HIPAA, Claimants also provided Rust with current, HIPAA compliant authorizations so that they can view the X-rays and supporting records at the facilities.
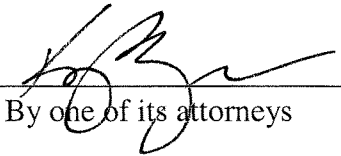
Claimants have complied with the Court's order. In fact, by providing Claimants have given Grace more than the Court required. Grace's motion asks this Court to create yet another

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[1] Under 45 CFR Subtitle A, Subchapter C, § 164.526, it also appears that HIPAA mandates that the hospital or health provider retain the original record and allow only inspection or copying. It would appear that Grace's demand for a repository for *all original* films may be impossible.

barrier to any resolution of this bankruptcy by ordering a repository for original x-ray films. Grace

provides no basis or reason for the creation of such an entity, other than an apparent dissatisfaction

with the Claimant's timely responses. Grace also seems astounded that Claimants from fifty

jurisdictions would have health providers scattered throughout the nation. Claimants' representatives

negotiated with Grace in good faith to reach an agreement regarding the production of X-rays. Grace

is evidently feeling remorse over that agreement, but this Court should not permit Grace's feelings

to disrupt the agreed upon method of production and stall the estimation proceedings any further.

Wherefore, for all of the reasons stated above, Claimants represented by Cooney and Conway

respectfully request that the Honorable Court deny Graces's motion to modify.

Respecfully submitted,
COONEY & CONWAY

By one of its attorneys

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